

H. R. 6804

IN THE HOUSE OF REPRESENTATIVES

Mr. PHILLIP BURTON introduced the following bill; which was referred to the Committee on Interior and Insular Affairs

A BILL

To amend the National Historic Preservation Act of 1966, and
for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SHORT TITLE

SECTION 1. This Act may be cited as the “National
Historic Preservation Amendments of 1980”.

6 AMENDMENTS TO NATIONAL HISTORIC PRESERVATION

7 ACT OF 1966

8 SEC. 2. The Act of October 15, 1966 (16 U.S.C. 470-
9 470t) is amended to read as follows:

1 “SHORT TITLE

2 “SECTION 1. This Act may be cited as the ‘National
3 Historic Preservation Act’.

4 “FINDINGS AND DECLARATIONS

5 “SEC. 2. The Congress finds and declares—

6 “(1) that the spirit and direction of the Nation are
7 founded upon and reflected in its historic past;

8 “(2) that the historical and cultural foundations of
9 the Nation should be preserved as a living part of our
10 community life and development in order to give a
11 sense of orientation to the American people;

12 “(3) that, in the face of ever-increasing extensions
13 of urban centers, highways, and residential, commer-
14 cial, and industrial developments, the present govern-
15 mental and nongovernmental historic perservation pro-
16 grams and activities are inadequate to insure future
17 generations a genuine opportunity to appreciate and
18 enjoy the rich heritage of our Nation; and

19 “(4) that, although the major burdens of historic
20 preservation have been borne and major efforts initiat-
21 ed by private agencies and individuals, and both should
22 continue to play a vital role, it is nevertheless neces-
23 sary and appropriate for the Federal Government to
24 accelerate its historic preservation programs and activi-
25 ties, to give maximum encouragement to agencies and

1 individuals undertaking preservation by private means,
2 and to assist State and local governments and the Na-
3 tional Trust for Historic Preservation in the United
4 States to expand and accelerate their historic preserva-
5 tion programs and activities.

6 "POLICY

7 "SEC. 3. The Congress, recognizing the importance of
8 the existing elements of our national heritage to the mainte-
9 nance and continuing development of human life and the
10 American society, declares that it is the duty and continuing
11 policy of the Federal Government, in cooperation with other
12 nations, the States, and local communities, and private orga-
13 nizations and individuals—

14 "(1) to develop and use means and measures, in-
15 cluding financial and technical assistance, for the pur-
16 poses of fostering and promoting conditions under
17 which our modern society and our heritage can exist in
18 productive harmony and can fulfill the social, econom-
19 ic, and other requirements of present and future gen-
20 erations;

21 "(2) to provide leadership in the preservation and
22 conservation of the prehistoric, historic, architectural,
23 and cultural resources of the United States and of the
24 international community of Nations;

1 “(3) to administer federally owned or controlled
2 historic and cultural resources in a spirit of steward-
3 ship and trusteeship for the benefit of present and
4 future generations;

5 “(4) to administer the national historic preserva-
6 tion program in partnership with the States and to
7 insure that Federal policies, plans, programs, activities,
8 and projects—

9 “(A) contribute to the preservation and con-
10 servation of nonfederally owned historic and cul-
11 tural resources,

12 “(B) are coordinated with State, community,
13 and private activities to preserve and conserve
14 historic and cultural resources, and

15 “(C) contribute to the preservation of signifi-
16 cant historic and cultural resources of other Na-
17 tions; and

18 “(5) to encourage the conservation and reuse in
19 the most productive manner not only of historic proper-
20 ties but also all those other useable elements of the
21 Nation’s built environment, and to encourage the pro-
22 grams of the Federal Government to contribute to the
23 goal of conserving the Nation’s built environment.

1 "TITLE I—FEDERAL AND STATE PRESERVATION
2 PROGRAMS

3 "Subtitle A—National Register of Historic Places

4 "ESTABLISHMENT OF NATIONAL REGISTER

5 "SEC. 101. The Secretary shall maintain and expand a
6 National Register of Historic Places (hereinafter in this Act
7 referred to as the National Register) to be comprised of dis-
8 tricts, sites, buildings, structures, and objects determined to
9 be significant in American prehistory, history, architecture,
10 and culture, at the National, State, or local level. Such deter-
11 mination shall be made in accordance with this subtitle pur-
12 suant to the criteria established by the Secretary under sec-
13 tion 104.

14 "INVENTORY OF HISTORIC RESOURCES; ELIGIBLE
15 PROPERTIES

16 "SEC. 102. (a)(1) Not later than one year after the date
17 of the enactment of the National Historic Preservation
18 Amendments of 1980, the Secretary shall, in cooperation
19 with the States, establish an Inventory of Historic Resources
20 on a State-by-State basis (hereinafter in this Act referred to
21 as the 'inventory'). The inventory for each State shall consti-
22 tute a consolidated Statewide resource data base comprised
23 of properties which may meet the criteria of significance es-
24 tablished by the Secretary under section 104(a).

“(2) The inventory shall be made available to all Federal, State, and local government departments, agencies, and instrumentalities to facilitate their planning and other activities. The Secretary shall promulgate regulations under which, notwithstanding any other authority of law, information concerning the location of any property on the Inventory shall not be available to the public where the disclosure to the public of such information would be likely to endanger the property.

“(b)(1) Properties included in the inventory which have been determined by the Secretary to meet the criteria of significance set forth in section 104(a) shall be designated as Eligible for Inclusion on the National Register (hereinafter in this Act referred to as Eligible Properties).

15 “(2) Eligible Properties shall be entitled to financial as-
16 sistance in accordance with the provisions of subtitle B, and
17 shall be entitled to the protections set forth with respect to
18 such properties under section 247.

19 "PROCEDURE FOR INCLUSION IN NATIONAL REGISTER OR
20 INVENTORY

21 “SEC. 103. (a) All properties included in the National
22 Register under prior authority of law shall be deemed to be
23 included in the National Register required to be maintained
24 and expanded under section 101.

1 “(b) Any State which is carrying out a program ap-
2 proved under part 2 of subtitle B may, and any Federal
3 agency may pursuant to section 247(d), nominate to the Sec-
4 retary a property which meets the requirements of section
5 101 for inclusion in the National Register or for inclusion in
6 the Inventory as an Eligible Property. Any property nomi-
7 nated under this subsection shall be included, as may be ap-
8 propriate, in the Register or in inventory as an Eligible Prop-
9 erty on the date thirty days after receipt by the Secretary of
10 the nomination unless the Secretary disapproves such nomi-
11 nation within such thirty-day period.

12 “(c) The Secretary shall include in the inventory—

13 “(1) all properties included in lists or inventories
14 of resources established or maintained under prior au-
15 thority of law or under any other authority of law and
16 all properties recorded under any other authority of
17 law which properties may meet the criteria of signifi-
18 cance established under section 104(a), but which have
19 not been professionally evaluated in accordance with
20 an approved State program; and

21 “(2) all properties which may meet the criteria of
22 significance established under section 104(a) and which
23 are proposed to him for inclusion in such inventory by
24 any State or local government or by any other Federal
25 agency.

1 “(d) The Secretary may accept a nomination from any
 2 person or local governmental authority for inclusion of a
 3 property in the National Register or in the inventory as an
 4 Eligible Property if such property is located in a State or
 5 political subdivision where there is no program approved
 6 under part 2 of subtitle B. If the Secretary determines that
 7 such property meets the requirements of section 101, he shall
 8 include the property in the National Register or in the Inven-
 9 tory of Historic Resources as an Eligible Property, as may be
 10 appropriate.

11 “(e) The Secretary may, at his discretion, include any
 12 property in the inventory and designate the property as an
 13 Eligible Property if he determines, after consultation with the
 14 appropriate State historic preservation officer and concerned
 15 Federal agency, that the property meets the requirements of
 16 section 101 and that such action is necessary to assure the
 17 protection of the property in accordance with the policy of
 18 this Act.

19 “CRITERIA FOR PROPERTIES TO BE INCLUDED ON
 20 REGISTER

21 “SEC. 104. (a) The Secretary shall, by rule, establish
 22 criteria for properties to be considered of National, State, or
 23 local significance in American prehistory, history, architec-
 24 ture, or culture.

1 “(b) A property shall be considered to be of World Heri-
 2 tage significance when it is included in the World Heritage
 3 List maintained in accordance with the terms of the Conven-
 4 tion Concerning the Protection of the World Cultural and
 5 Natural Heritage.

6 “(c) The Secretary shall undertake an examination of
 7 the criteria promulgated under section 101(a)(1) of prior au-
 8 thority of law to determine whether or not such criteria
 9 should apply for purposes of subsection (a) of this section. If
 10 the Secretary determines that such criteria should apply for
 11 such purposes or that such criteria require revision for such
 12 purposes, he shall promulgate such criteria (including such
 13 revisions) under this section.

14 “LANDMARK PROGRAM

15 “SEC. 105. (a) The Secretary shall establish a continu-
 16 ing program to evaluate this Nation’s historic resources to
 17 identify and designate properties of national significance, or
 18 properties of such significance that they may warrant inclu-
 19 sion in the World Heritage List referred to in section 104(b).
 20 The Secretary shall establish special advisory panels of quali-
 21 fied experts in the fields of history, architecture, archeology,
 22 and related disciplines to assist in the evaluation of properties
 23 under this section.

24 “(b) The survey and evaluation of historic properties
 25 under this section may be conducted on a thematic or other

1 appropriate basis and only those examples determined to be
2 outstanding shall be designated as nationally significant.
3 Properties determined by the Secretary to be of national sig-
4 nificance shall be designated as 'National Historic Land-
5 marks' and properties included in the World Heritage List
6 shall be designated as 'World Heritage Properties'. Such
7 properties shall be included in the National Register in ac-
8 cordance with regulations prescribed by the Secretary.
9 Whenever the Secretary determines that a property is of na-
10 tional significance he shall notify the Interior and Insular Af-
11 fairs Committee of the United States House of Representa-
12 tives and the Energy and Natural Resources Committee of
13 the United States Senate thirty days before such action be-
14 comes effective.

15 “(c) The Secretary shall promulgate standards and cri-
16 teria to evaluate properties for national and world heritag-
17 significance within one hundred and eighty days after the
18 date of the enactment of the National Historic Preservation
19 Amendments of 1980. In developing these criteria and stand-
20 ards the Secretary shall consult with appropriate experts in
21 the fields of history, architecture, archeology, and related
22 disciplines.

23 “REGULATIONS

24 “SEC. 106. The Secretary shall promulgate interim reg-
25 ulations to carry out this subtitle not more than thirty days

1 after the date of the enactment of the National Historic Pres-
 2 ervation Amendments of 1980 and final regulations for such
 3 purposes not more than one year after such date.

4 “Subtitle B—Financial Assistance

5 “PART 1—GENERAL AUTHORITIES

6 “FINANCIAL ASSISTANCE AUTHORITIES

7 “SEC. 111. The Secretary shall establish and administer
 8 in accordance with this title—

9 “(1) a program of matching grants-in-aid to States
 10 for preservation programs that have been approved by
 11 the Secretary in accordance with part 2 of this subtitle;

12 “(2) a program to make direct grants, loans, or
 13 both under part 3 of this subtitle and a loan guarantee
 14 program under such part 3; and

15 “(3) a program under which matching grants-in-
 16 aid are made to the National Trust for Historic Preser-
 17 vation in the United States, chartered by act of Con-
 18 gress approved October 26, 1949 (63 Stat. 927) for
 19 the purpose of carrying out the responsibilities of the
 20 National Trust.

21 “PART 2—STATE PROGRAMS

22 “GRANTS FOR APPROVED STATE PROGRAMS

23 “SEC. 112. (a) Upon the application of any State, the
 24 Secretary is authorized to make grants to States to carry out
 25 State programs which have been approved under this section.

1 No grant made under this section may be used to pay more
2 than 50 per centum of the costs of carrying out any such
3 State program. The remaining 50 per centum shall be con-
4 tributed by non-Federal sources unless otherwise provided by
5 law. Such 50 per centum limitations shall be applied on an
6 aggregate basis with respect to all expenditures under the
7 State program during any fiscal year and not on the basis of
8 project-by-project expenditures.

9 “(b) Any State may submit to the Secretary a program
10 which provides appropriate governmental mechanisms for the
11 identification, evaluation, protection, and preservation of dis-
12 tricts, sites, buildings, structures, and objects within the
13 State which are significant in American prehistory, history,
14 architecture, and culture. Such a State program shall be ap-
15 proved by the Secretary unless he determines that the pro-
16 gram does not meet the requirements of section 113 and t
17 other requirements of this part or that the State is not prop-
18 erly implementing such program. Any such program which
19 has been disapproved by the Secretary may be approved by
20 him upon his subsequent determination that the program has
21 been revised to meet the requirements of this Act.

22 “(c)(1) The Secretary shall evaluate the State program
23 to make a determination as to whether or not it is in compli-
24 ance with the requirements of this Act. Such evaluation shall
25 not be more frequent than every four years after the approval

1 of such State program, unless the Secretary determines as a
2 result of a periodic fiscal audit under subsection 112(c)(2) that
3 an evaluation is necessary.

4 “(2) The Secretary shall conduct periodic fiscal audits of
5 State programs approved under this part. Such audits shall
6 include an evaluation of the recipient’s (A) accounting and
7 control systems, and (B) stewardship of all grants received
8 under this part. Audits carried out pursuant to this subsection
9 shall be audits of the recipient, and shall not be audits of
10 individual grants or programs.

11 “(3) State and local governments may assume the re-
12 sponsibility for financial and compliance audits of State and
13 local governments and other persons or organizations receiv-
14 ing Federal grants under this part and their subgrantees. The
15 audits shall be made by independent auditors in accordance
16 with generally accepted auditing standards and shall include
17 an opinion as to the extent to which the accounting policies
18 and systems follow generally accepted accounting principles
19 and standards.

20 “(4) The Federal Government shall be responsible for
21 audits which deal with economy, efficiency, and program re-
22 sults, and for assuring that financial and compliance audits
23 conducted by State and local government auditors or inde-
24 pendent auditors meet generally accepted auditing standards.
25 Nothing in this section shall preclude the Federal Govern-

1 ment from contracting with independent auditors to perform
 2 economy, efficiency, or program results audits; except that
 3 the Federal Government shall be responsible for assuring
 4 that such audits meet generally accepted auditing standards.

5 “(5) State and local governments receiving a grant shall
 6 set forth in writing the criteria by which they judge whether
 7 they are meeting program requirements. Such criteria shall
 8 be based on the legislation (including committee reports
 9 hearings, and debates), and the implementing regulations of
 10 the Secretary and shall be available for use by those auditing
 11 the recipient.

12 “(6) The Secretary shall reimburse State and local gov-
 13 ernments for actual expenses incurred in conducting audits
 14 on behalf of the Federal Government.

15 “REQUIREMENTS FOR APPROVAL OF STATE PROGRAMS

16 “SEC. 113. (a) A State program submitted to the Sec
 17 tary under section 112 shall be approved by the Secretary if
 18 he determines that the program—

19 “(1) provides for the designation by the Governor
 20 of a ‘State historic preservation officer’ to administer
 21 such program and for the appointment by such officer
 22 of such professionally qualified staff as may be neces-
 23 sary for such purposes;

24 “(2) provides a mechanism, where appropriate, for
 25 the certification by the State historic preservation offi-

cer of political subdivisions or nonprofit organizations to carry out the purposes of this Act and provides for the transfer, in accordance with section 114, of a portion of the grants received by the States under this Act, to such certified programs;

“(3) provides a variety of financial mechanisms (which may include grants, loans, loan guarantees, revolving fund accounts, interest and rent subsidies, and tax incentives) to assist private and governmental entities in the preservation and development of properties which are on the National Register or which are in the Inventory of Historic Resources and designated as Eligible Properties, or any properties used in connection therewith, in order to assure their protection for the public benefit;

“(4) provides mechanisms for the acquisition, acceptance of donations, and dedication of fee title (or less than fee interest) in any property referred to in paragraph (3);

“(5) provides a professionally acceptable mechanism for the identification and evaluation of historic properties within the State and for the protection of such properties; and

“(6) otherwise carries out the purposes of this Act in such State.

1 “(b) No State program may be approved under this part,
2 and no program of a political subdivision or nonprofit organi-
3 zation may be certified under this part, unless such program
4 provides that grants made under the program for the physical
5 repair or improvement of any property may be made—

6 “(1) only for properties which are included on the
7 National Register or in the inventory and designated
8 as Eligible Properties; and

9 “(2) only if the grantee has agreed to assume,
10 after completion of the project, the basic cost of the
11 continued maintenance, repair, and administration of
12 the property for an appropriate period of time and in a
13 manner satisfactory to the Secretary.

14 “(c) The State historic preservation officer appointed
15 under subsection (a)(1) shall be a State official whose duties
16 shall include, but not be limited to the following:

17 “(1) Development of an administrative framework
18 for the State historic preservation program, consisting
19 of:

20 “(A) The State historic preservation office;

21 “(B) a professional staff working under the
22 direction of the State historic preservation officer;
23 and

1 “(C) A State Review Board designated by
2 the State historic preservation officer unless oth-
3 erwise provided for by State law.

4 “(2) Direction of a comprehensive statewide
5 survey of historic properties and preparation of a
6 statewide historic resources data base.

7 “(3) Registration, or official recognition, of histor-
8 ic properties through:

9 “(A) preparation and submission of nomina-
10 tions to the National Register, and

11 “(B) participation in the Secretary’s determi-
12 nations that historic properties meet the National
13 Register criteria and are therefore eligible for list-
14 ing in the National Register.

15 “(4) Cooperation in the development of effective
16 working relationships with Federal agencies, other
17 State offices, local governmental units, and the public
18 that participate in the identification, registration, pro-
19 tection, enhancement, and management of historic
20 properties and in project planning that may affect his-
21 toric properties.

22 “(5) Cooperation in the integration of historic
23 preservation planning with all levels of planning, in
24 order to ensure that the need to preserve historic prop-

1 erties is taken into consideration by all planning and
2 development agencies.

3 “(6) Cooperation in the development and mainte-
4 nance of a review procedure for publicly funded, assist-
5 ed, and licensed undertakings that may affect historic
6 properties within the State.

7 “(7) Participation in the review of Federal, feder-
8 ally assisted, and federally licensed undertakings under
9 section 247 and participation in the review of non-Fed
10 eral undertakings when required or permitted by State
11 law.

12 “(8) Assistance to Federal agencies in fulfilling
13 their historic preservation responsibilities under Feder-
14 al laws and regulations.

15 “(9) Liaison with organizations of professional
16 prehistoric and historic archeologists, historians, archi-
17 tects, architectural historians, planners, and others con-
18 cerned with historic preservation.

19 “(10) Development and operation of a program of
20 public information and education concerning historic
21 preservation and available grants programs.

22 “(11) Administration of the grants program under
23 this part within the State.

“(12) Preparation and maintenance of a comprehensive statewide historic preservation plan, subject to approval by the Secretary.

4 “REQUIREMENTS FOR STATE CERTIFICATION OF
5 PROGRAMS

6 “SEC. 114. A program of a political subdivision or non-
7 profit organization may be certified by the State historic
8 preservation officer under section 113(a)(2) if such subdivi-
9 sion or organization—

10 “(1) agrees to employ staff qualified in all areas of
11 expertise to carry out the program;

12 “(2) agrees to submit to and have approved by
13 the State historic preservation officer an annual work
14 plan to carry out the program;

15 “(3) has sufficient fiscal and management re-
16 sources to undertake the program; and

“(4) complies with such further terms and conditions as the Secretary or State historic preservation officer may deem advisable.

20 "PROGRAMS OF POLITICAL SUBDIVISIONS IN ABSENCE OF
21 STATE PROGRAM

22 “SEC. 115. (a) In the case of any State which does not
23 have a State program approved under this part within two
24 years after the date of the enactment of the National Historic
25 Preservation Amendments of 1980, one or more political

1 subdivisions in such State may apply to the Secretary for
2 certification of a preservation program to be carried out
3 under this part in such political subdivisions. Upon such an
4 application, the Secretary may certify one or more of such
5 programs if he determines that the program or programs will
6 carry out the provisions of this subtitle in the political subdi-
7 vision or subdivisions concerned in accordance with the pur-
8 poses of this Act. Following such certification, the Secretary
9 may allocate such amounts as would otherwise be available
10 to such State for a State program under this part in accord-
11 ance with sections 113 and 114 to the certified political sub-
12 division or subdivisions in such State. The Secretary shall
13 insure that no allocation under this section will result in any
14 political subdivision receiving a disproportionate share of the
15 funds available; and for such purposes he may limit the allo-
16 cation to any single political subdivision and reallocate any
17 remaining funds among the States on the basis of need.

18 “(b) A political subdivision carrying out a program
19 under this section may, upon approval of the Secretary, certi-
20 fy local governmental units and nonprofit organizations with
21 the political subdivision and transfer grants to them in the
22 same manner as provided in the case of States pursuant to
23 sections 113(a)(2) and 114.

1 “PROGRAMS UNDER PRIOR LAW

2 “SEC. 116. Any State historic preservation program in
3 effect under prior authority of law, shall be treated as an
4 approved program for purposes of this subtitle until the earli-
5 er of—

6 “(1) the date on which the Secretary approves a
7 program submitted by the State under this subtitle, or

8 “(2) three years after the date of the enactment of
9 the National Historic Preservation Amendments of
10 1980.

11 “PART 3—FEDERAL ASSISTANCE

12 “CONDITIONS FOR GRANTS AND LOANS

13 “SEC. 121. (a) Grants, loans, or both may be made by
14 the Secretary, in consultation with any appropriate State his-
15 toric preservation officer—

16 “(1) for the full cost (or any part of the cost) of
17 preservation of National Historic Landmarks or historic
18 properties of World Heritage significance,

19 “(2) for demonstration projects to preserve any
20 Eligible Property or property on the National Register,

21 “(3) for the training and development of skilled
22 labor in trades and crafts and in analysis and curation
23 relating to historic preservation; and

1 “(4) to enable persons or business within any his-
2 toric district affected by a program under this part to
3 remain within the district.

4 Grants or loans or both may also be made under this section
5 to Indian tribes and to nonprofit organizations representing
6 ethnic or minority groups for the preservation of their cultur-
7 al heritage. No grant may be made under this section unless
8 the Secretary determines that the project could not be carried
9 out in as effective a manner through the use of a direct or
10 guaranteed loan under this part or through a State program
11 under part 2.

12 “(b)(1) Any loan made by the Secretary under this sec-
13 tion shall be at an interest rate determined by the Secretary
14 of the Treasury taking into consideration the current average
15 market yield on outstanding marketable obligations of the
16 United States with periods of maturity comparable to the
17 average maturities of such loans, adjusted to the nearest one-
18 eighth of 1 per centum, plus additional charge, if any, toward
19 covering other costs of the program as the Secretary may
20 determine to be consistent with its purpose. The Secretary is
21 authorized to provide an interest subsidy for any such loan by
22 reducing the interest rate established with respect to such
23 loan, except that in no event shall such reduction of interest
24 reduce the effective rate of interest payable more than 7 per-

1 centage points. In no event shall the rate payable be reduced
2 to a rate lower than 3 per centum per year.

3 “(2) No loan under this part may exceed 90 per centum
4 of the aggregate cost to the applicant, excluding all other
5 Federal aid, of the project concerned.

6 “(c) Loan assistance under this section shall be on the
7 condition that not less than 10 per centum of the aggregate
8 cost of the project concerned is to be supplied as equity capi-
9 tal, as no-cash contribution to the project acceptable to the
10 Secretary, or as a loan repayable in no shorter period of time
11 and at no faster an amortization rate than the loan extended
12 under this section is being repaid and if such a loan is se-
13 cured, its security shall be subordinated to the lien or liens
14 securing the loan extended under this section.

15 “(d) During any time that any loan made under this
16 section is outstanding, the Secretary is authorized, under reg-
17 ulations prescribed by him, to take any and all actions deter-
18 mined to be necessary or desirable in dealing with, or realiz-
19 ing on, loans.

20 “(e) A direct loan from the Secretary may be made
21 under this part only if he determines the project could not be
22 carried out in as effective a manner by a guaranteed loan
23 under this part.

24 “(f) Upon application of the obligor and upon a finding
25 of need for short-term financial support for the project, the

1 Secretary may postpone for a specified period the due date of
 2 any payment of principal and interest on a loan made under
 3 this section if he determines that such a postponement will
 4 carry out the purposes of this part and will not jeopardize the
 5 interests of the United States.

6 "LOAN GUARANTEES

7 "SEC. 122. (a) Upon the application of a private lender,
 8 the Secretary is authorized to guarantee the payment of the
 9 principal amount of, and interest on, loans (including mort-
 10 gage loans) made by such private lender to finance any proj-
 11 ect for the preservation of a property which is on the Nation-
 12 al Register or in the Inventory of Historic Resources and
 13 designated as an Eligible Property. Such guarantee may be
 14 for not more than 90 per centum of such loan, including prin-
 15 cipal and interest, and no such guarantee shall at any time
 16 exceed 90 per centum of the amount of the outstanding
 17 unpaid balance of such loan including reasonable costs as de-
 18 termined by the Secretary.

19 "(b) The Secretary shall not guarantee any loan under
 20 this section if—

21 "(1) the rate of interest on either the portion to
 22 be guaranteed or the portion not to be guaranteed is
 23 determined by the Council to be excessive; or

24 "(2) the loan is payable to any governmental
 25 entity.

1 “(c) Guarantees under this section shall only be made
 2 for projects which have been approved by the State historic
 3 preservation officer designated pursuant to section 113(a)(1),
 4 or, in the case of a State which does not have a program
 5 approved under part 2, by the chief elected official (or such
 6 official’s designee) of the political subdivision in which the
 7 project will be located. The Secretary may waive the require-
 8 ment for such approval in appropriate instances.

9 “(d) The full faith and credit of the United States is
 10 pledged to the payment of all guarantees made under this
 11 section with respect to both principal and interest, including
 12 interest as provided for in the guarantee accruing between
 13 the date of default under a guaranteed obligation and the
 14 payment in full of the guarantee.

15 “(e) The Secretary may assess appropriate and reason-
 16 able fees and charges to guarantee loans.

17 “(f) The Secretary shall set, by rule, dollar limitations
 18 on the aggregate amount of loans to be guaranteed under this
 19 subtitle, but in no event shall such aggregate amount exceed
 20 five times the amount authorized but unappropriated for the
 21 National Historic Preservation Fund.

22 “CONDITIONS FOR LOANS AND LOAN GUARANTEES .

23 “SEC. 123. (a) No loans shall be made or guaranteed
 24 under this part unless the Secretary determines through an

1 appropriate method that there is reasonable assurance of
2 repayment.

3 “(b) The Secretary shall consult with the Secretary of
4 the Treasury regarding the interest rate, timing, and other
5 terms and conditions of loans and guaranteed obligations
6 under this title. The Secretary of the Treasury may waive
7 the requirement contained in the preceding sentence with re-
8 spect to any loan or guaranteed obligation when he deter-
9 mines that such obligation does not have a significant impact
10 on the market for Government and Government-guaranteed
11 securities.

12 “(c) The Secretary of the Treasury is authorized to pur-
13 chase loans and loan guarantees made under this title
14 through the Federal Financing Bank. This authority may be
15 exercised only if the Secretary of the Interior determines that
16 an adequate secondary market for such obligations is not
17 available in the private sector.

18 “(d) No loan or guarantee, including renewals or exten-
19 sions thereof, may be made under this part for a period ex-
20 ceeding the lesser of forty years or the expected life of the
21 asset financed. The foregoing restrictions on maturities shall
22 not apply to securities or obligations received by the Secre-
23 tary as a claimant in bankruptcy or equitable reorganization
24 or as a creditor in other proceedings attendant upon insolven-
25 cy of the obligor.

1 “(e) Any guarantee or interest subsidy agreement shall
2 be conclusive evidence of the eligibility of the obligation for
3 such guarantee or interest subsidy, and the validity of any
4 guarantee or interest subsidy agreement shall be incon-
5 testable.

6 “(f) To the extent the Secretary finds such action neces-
7 sary to encourage financial participation in a particular proj-
8 ect by other lenders and investors, and except as otherwise
9 provided in section 121, any Federal financial assistance ex-
10 tended under this title may be made repayable after other
11 loans made in connection with such project have been repaid
12 in full, and the security, if any, for such Federal financial
13 assistance may be subordinate and inferior to the lien or liens
14 securing other loans made in connection with the same
15 project.

6 “(g) For any loan made or obligation guaranteed under
17 the authority of this part, the Secretary is authorized to enter
18 into arrangements for the servicing, including foreclosure, of
19 such loans or evidences of indebtedness on reasonable terms
20 that protect the financial interests of the United States.

21 “(h) The Secretary is authorized to pay the principal
22 and interest on loans guaranteed under the authority of sec-
23 tion 122, and there is hereby authorized to be appropriated
24 such amounts as may be necessary for the repayment of prin-

1 cipal and interest on loans in default and guaranteed pursu-
 2 ant to section 122, to remain available until expended.

3 “(i) Notwithstanding any other provision of law, any
 4 loan or guaranteed obligation under this part shall be treated
 5 as non-Federal funds for the purposes of satisfying any re-
 6 quirement of any other provision of law under which Federal
 7 funds to be used for any project or activity are conditioned
 8 upon the use of non-Federal funds by the recipient for pay-
 9 ment of any portion of the costs of such project or activity.

10 “PRIVILEGED OR CONFIDENTIAL INFORMATION

11 “SEC. 124. To the extent the Secretary deems it appro-
 12 priate and consistent with the principles of section 552(b)(4)
 13 and section 552(c)(4) of title 5, United States Code, that por-
 14 tion of any record, material, or data received by the Secreary
 15 in connection with any application for financial assistance
 16 under this part which contains trade secrets or commercial o
 17 financial information regarding the operation or competitive
 18 position of any business shall be deemed to be ‘privileged or
 19 confidential’ within the meaning of those sections.

20 “TITLE II—FEDERAL AUTHORITIES AND 21 RESPONSIBILITIES

22 “Subtitle A—Advisory Council on Historic Preservation

23 “ESTABLISHMENT

24 “SEC. 201. There is hereby established as an independ-
 25 ent agency of the United States an Advisory Council on His-

1 toric Preservation (hereinafter referred to in this Act as the
2 'Council') to be under the direction of a Chairman who shall
3 be appointed by the President, by and with the advice and
4 consent of the Senate, and who shall be compensated at the
5 rate provided for level III of the Executive Schedule under
6 section 5315 of title 5 of the United States Code. The Chair-
7 man shall exercise such authorities of the Council as the
8 Council may designate.

9 "ADVISORY COUNCIL

10 "SEC. 202. (a) The Council shall be composed of the
11 Chairman appointed under section 201 and the following
12 members:

13 "(1) the Secretary of the Interior, the Architect of
14 the Capitol;

15 "(2) the heads of four agencies of the United
16 States (other than the Department of the Interior) the
17 activities of which affect historic preservation, appoint-
18 ed by the President;

19 "(3) a representative of the National Conference
20 of State Historic Preservation Officers, a representa-
21 tive of the National Trust for Historic Preservation,
22 and four professionals in the fields of history, architec-
23 ture, archaeology, urban planning, or related disci-
24 plines, appointed by the President from among recom-
25 mendations of organizations representing such profes-

1 sions and from among recommendations made by na-
2 tional historic preservation organizations;

3 “(4) three State Governors or mayors, appointed
4 by the President; and

5 “(5) three at-large members of the general public,
6 appointed by the President.

7 The Chairman and members of the Council shall be appoint-
8 ed not later than one hundred and eighty days after the date
9 of the enactment of the National Historic Preservation
10 Amendments of 1980.

11 “(b) Each member of the Council appointed under para-
12 graph (1) or (2) of subsection (a) may designate another offi-
13 cer of his agency to serve on the Council in his stead, except
14 that no such officer who is below the rank of Assistant Secre-
15 tary may be so designated.

16 “(c) Each member of the Council appointed under para-
17 graph (3), (4), or (5) of subsection (a) shall serve for a term of
18 four years from the expiration of his predecessor’s term,
19 except that a member first appointed under any such para-
20 graph shall be appointed not later than one hundred and
21 eighty days after the date of the enactment of the National
22 Historic Preservation Amendments of 1980 and shall serve
23 for a term of from two to four years, as designated by the
24 President at the time of his appointment, in such manner that

1 terms of not more than four of such members will expire in
2 any one year.

3 “(d) A vacancy in the Council shall not affect its powers
4 but shall be filled, not later than thirty days after such vacan-
5 cy commences, in the same manner as the original appoint-
6 ment and for the balance of the unexpired term, if any.

7 “(e) The Vice Chairman of the Council shall be elected
8 from among the members of the Council appointed under
9 paragraph (3), (4), or (5) of subsection (a), and shall serve for
10 a term of two years.

11 “(f) Ten members of the Council shall constitute a
12 quorum.

13 “(g) The members of the Council specified in paragraph
14 (1) or (2) of subsection (a) shall serve without additional com-
15 pensation. The other members of the Council shall receive
16 \$100 per diem when engaged in the performance of the
17 duties of the Council. While away from their homes or regu-
18 lar places of business in the performance of services for the
19 Council all members of the Council shall be allowed travel
20 expenses, including per diem in lieu of subsistence, in the
21 same manner as persons employed intermittently in Govern-
22 ment service are allowed expenses under section 5703 of title
23 5 of the United States Code.

24 “(h) The Council shall meet not less than twice a year.

1 “(i) Each member of the Council specified in paragraph
2 (1) or (2) of subsection (a) shall provide to the Council (with
3 or without reimbursement as may be agreed upon by the
4 Chairman and such member) such funds, personnel, facilities,
5 moneys, and services under their jurisdiction and control as
6 may be needed by the Council to carry out its duties, to the
7 extent that such funds, personnel, facilities, and services are
8 requested by the Council and are otherwise available for that
9 purpose. To the extent of available appropriations, the Coun-
10 cil may obtain, by purchase, rental, donation, or otherwise,
11 such additional property, facilities, moneys, and services as
12 may be needed to carry out its duties.

13 “(j) The Council may accept donations and bequests of
14 money and real and personal property and shall hold, use,
15 expend, and administer such money and property in carrying
16 out its functions.

17 “(k) The Advisory Council on Historic Preservation es-
18 tablished under prior authority of law shall continue in exist-
19 ence and shall be authorized to carry out its functions under
20 such prior authority of law until the date on which the Chair-
21 man and full membership of the Council is initially appointed
22 under this subtitle. Beginning on the date on which the
23 Chairman is appointed pursuant to this Act, all references in
24 provisions of law enacted before the date of the enactment of
25 the National Historic Preservation Amendments of 1980 to

1 the Advisory Council on Historic Preservation shall be treat-
2 ed as references to the Council established under such
3 amendments.

4 "LEGISLATIVE BYPASS

5 "SEC. 203. Whenever the Council transmits any legis-
6 lative recommendations, or testimony, or comments on legis-
7 lation to the President or the Office of Management and
8 Budget, it shall concurrently transmit copies thereof to the
9 Committee on Interior and Insular Affairs of the United
10 States House of Representatives and the Committee on
11 Energy and Natural Resources of the United States Senate.
12 No officer or agency of the United States shall have any
13 authority to require the Council to submit its legislative rec-
14 ommendations, or testimony, or comments on legislation to
15 any officer or agency of the United States for approval, com-
16 ments, or review, prior to the submission of such recommen-
17 dations, testimony, or comments to the Congress. In in-
18 stances in which the Council voluntarily seeks to obtain the
19 comments or review of any officer or agency of the United
20 States, the Council shall include a description of such actions
21 in its legislative recommendations, testimony, or comments
22 on legislation which it transmits to the Congress.

23 "DUTIES OF COUNCIL

24 "SEC. 204. (a) The Council shall—

1 “(1) review the application of section 247 and, at
2 the request of the Chairman or on its own motion, con-
3 duct hearings and make determinations and recommen-
4 dations in the public interest with respect to the appli-
5 cation of section 247;

6 “(2) advise the President and the Congress on
7 matters relating to historic preservation; coordinate ac-
8 tivities of Federal, State, and local agencies and pri-
9 vate institutions and individuals relating to historic
10 preservation; and disseminate information pertaining to
11 such activities;

12 “(3) encourage public interest and participation in
13 historic preservation;

14 “(4) conduct studies in such areas as the adequa-
15 cy of legislative and administrative statutes and regula-
16 tions pertaining to historic preservation activities of
17 States and local governments and the effects of tax
18 policies at all levels of government on historic preser-
19 vation;

20 “(5) assist State and local governments in drafting
21 legislation relating to historic preservation;

22 “(6) provide, in cooperation with appropriate
23 public and private agencies and institutions, training
24 and education in the field of historic preservation in-

1 cluding administrative and legal methods and tech-
2 niques.

3 “(7) in cooperation with the Secretary of the Inte-
4 rior and other appropriate organizations, establish a
5 comprehensive education and training program for Fed-
6 eral, State, and local officials who are involved in his-
7 toric preservation that is designed to further the educa-
8 tion and training of such officials with respect to the
9 administration of programs for historic preservation.

10 “(b) The Council shall submit annually a comprehensive
11 report of its activities and the results of its studies to the
12 President and the Congress and shall from time to time
13 submit such additional and special reports as he deems advis-
14 able. Each such annual report shall propose such legislative
15 enactments and other actions as, in the judgment of the
16 Council, are necessary and appropriate to carry out his rec-
17 ommendations, and shall provide the Council’s assessment of
18 current and emerging problems in the field of historic preser-
19 vation and an evaluation of the effectiveness of the programs
20 of Federal agencies, State and local governments, and the
21 private sector in carrying out the purposes of this Act.

22 “EMPLOYEES OF COUNCIL

23 “SEC. 205. (a) The Council shall have an Executive
24 Director who shall report directly to the Chairman and per-
25 form such functions as the Chairman shall prescribe.

1 “(b) The Council shall have a General Counsel who
2 shall report directly to the Chairman and shall serve as legal
3 advisor to the Chairman and to the Council. The Chairman
4 shall appoint such other attorneys as may be necessary to
5 assist the General Counsel, represent the Council in courts of
6 law whenever appropriate, assist the Department of Justice
7 in handling litigation concerning the Council in courts of law,
8 and perform such other legal duties and functions as the
9 Chairman may direct.

10 “(c) The Chairman shall have power to appoint and fix
11 the compensation of such personnel as may be necessary to
12 carry out the functions of the Council.

13 “(d) The Chairman is authorized to procure expert and
14 consultant services in accordance with the provisions of sec-
15 tion 3109 of title 5, United States Code.

16 “AGENCY DATA

17 “SEC. 206. The Council is authorized to secure directly
18 from any department, bureau, agency, board, commission,
19 office, independent establishment or instrumentality of the
20 executive branch of the Federal Government information,
21 suggestions, estimates, and statistics for the purpose of this
22 title; and each such department, bureau, agency, board, com-
23 mission, office, independent establishment, or instrumentality
24 is authorized to furnish such information, suggestions, esti-

1 mates, and statistics to the extent permitted by law and
2 within available funds.

3 "DONATIONS AND BEQUESTS

4 "SEC. 207. The Council may accept donations and be-
5 quests of money and real and personal property and shall
6 hold, use, expend, and administer such money and property
7 for purposes of carrying out his functions under this Act.

8 "RULES AND REGULATIONS

9 "SEC. 208. The Council is authorized to establish such
10 criteria, guidelines, and standards as are necessary to be ap-
11 plied by Federal agencies, States, their political subdivisions,
12 and other entities in the implementation of this Act, and to
13 establish such rules and regulations as are necessary to carry
14 out the purposes and provisions of this Act.

15 "Subtitle B—Coordination of Federal Activities

16 "REVIEW OF FEDERAL POLICIES

17 "SEC. 211. The Council shall review the policies and
18 programs of Federal agencies which are required to be sub-
19 mitted to the Council under section 250 and recommend to
20 such agencies methods for improving the effective coordina-
21 tion and consistency of such policies and programs with the
22 purposes of this Act and the Federal and State programs
23 carried out under this Act.

1 “GUIDELINES FOR FEDERAL AGENCIES

2 “SEC. 212. (a) Within ninety days after the date of en-
3 actment of the National Historic Preservation Amendments
4 of 1980, the Secretary in consultation with the Council, shall
5 promulgate guidelines for—

6 “(1) the identification of prehistoric and historic
7 properties required under section 247;

8 “(2) data recovery that is to be carried out pursu-
9 ant to a mitigation plan developed after satisfaction of
10 a Federal agency’s responsibilities under section 247
11 and under the authority of the Archaeological Recov-
12 ery Act of 1960 (16 U.S.C. 469–469c); and

13 “(3) the treatment of data recovered pursuant to a
14 mitigation plan funded or sanctioned by a Federal
15 agency.

16 “(b)(1) The guidelines under subsection (a)(1) shall—

17 “(A) take into account the magnitude of proposed
18 undertakings and any potential adverse effects on his-
19 toric properties,

20 “(B) provide a reasonable survey standard in rela-
21 tion to the potential magnitude of the adverse effect,
22 and

23 “(C) take into account planning stages of catego-
24 ries of undertakings.

1 The guidelines may provide standards permitting agencies to
2 fulfill their survey and identification responsibilities by having
3 applicants for Federal assistance or licenses undertake the
4 actual identification work.

5 “(2) The guidelines under subsection (a)(2) shall estab-
6 lish mechanisms to foster mitigation that is cost-effective and
7 will result in the recovery of information that will further
8 knowledge of history or prehistory.

9 “(3) The guidelines under subsection (a)(3) shall apply
10 to all Federal and federally assisted mitigation activities and
11 shall provide standards for the curation (including the stor-
12 age, placement, donation and loan).

13 “(c) Within ninety days after the Secretary establishes
14 the guidelines required under subsection (a), each Federal
15 agency shall submit to the Secretary proposed regulations,
16 standards, or procedures, as appropriate, to establish the re-
17 quirements that will govern the agency’s program activities
18 under the Secretary’s guidelines. Within thirty days follow-
19 ing such submission, the Secretary shall approve, in whole or
20 in part, agency submissions that he determines meet the re-
21 quirements of his guidelines. The Secretary, in consultation
22 with the Council, may issue interim standards to be followed
23 by any agency that does not promulgate approved regula-
24 tions, procedures, or standards for its program activities

1 within one hundred and twenty days after the initial submis-
2 sion to the Secretary.

3 “(d)(1) With respect to the agency regulations, proce-
4 dures, or standards promulgated pursuant to subsection
5 (a)(2), each agency shall provide a process for the Secretary
6 to review and approve all data recovery plans which involve
7 the expenditure of more than \$100,000. No mitigation plan
8 which involves the expenditure of more than \$100,000 may
9 be undertaken by any agency without the approval of the
10 Secretary.

11 “(2) The Secretary shall review agency submissions
12 under this subsection within thirty days. The Secretary may
13 establish panels of experts to assist in the evaluation of miti-
14 gation proposals. The Secretary may establish a limit on the
15 amount of Federal funds that may be spent on archeological
16 data recovery for any single project to which this subsection
17 applies.

18 **“FEDERAL LAND MANAGEMENT STANDARDS**

19 **“SEC. 213.** Within one year after the date of enactment
20 of the National Historic Preservation Amendments of 1980,
21 the Secretary shall establish, jointly with the Secretaries of
22 Agriculture and Defense, and the Administrator of the Gen-
23 eral Services Administration, standards for the management
24 and preservation of federally owned historic properties. Fol-
25 lowing final promulgation of such standards, all agencies

1 shall comply with such standards with respect to all such
 2 properties which are included in the National Register or
 3 designated as an Eligible Property.

4 “TRANSFEREES OF FEDERAL PROPERTY

5 “SEC. 214. The Secretary shall review and approve the
 6 plans of transferees of surplus federally owned properties
 7 which are Eligible Properties or properties on the National
 8 Register to ensure that the prehistorical, historical, architec-
 9 tural, or culturally significant values will be preserved or en-
 10 hanced in the rehabilitation, restoration, improvement, adapt-
 11 ive use, maintenance, and repair of such properties.

12 “COORDINATION WITH OTHER FEDERAL PROGRAMS

13 “SEC. 215. (a) All Federal agencies administering any
 14 program—

15 “(1) under which any Federal assistance is pro-
 16 vided to any State or local government or to any other
 17 person or entity, or

18 “(2) under which any Federal license, permit, or
 19 other approval is required

20 shall coordinate such program with the purposes of this Act
 21 and give a priority in carrying out such program to projects
 22 which will further the purposes of this Act.

23 “(b) Not later than one hundred and eighty days after
 24 the date on which a Council is initially appointed under this
 25 subtitle, or one hundred and eighty days after the date on

1 which a program referred to in subsection (a)(1) is established
2 in the case of a program established after the date of such
3 appointment, each agency administering such program shall
4 submit to the Council a proposal for carrying out such pro-
5 gram under which, notwithstanding any other provision of
6 law, the assistance to projects that will further the preserva-
7 tion of National Register or Eligible Properties and are enti-
8 tled to priority under subsection (a)(1) shall be increased
9 above the assistance which would otherwise be available.

10 “(c) Each agency required to submit a proposal under
11 subsection (b) and each agency administering a program ad-
12 dressed in subsection (a)(2) shall, not later than one hundred
13 and eighty days after the date on which the Council is initial-
14 ly appointed, submit a proposal under which, notwithstanding
15 any other provision of law, the assistance or permission pro-
16 vided under such program for any project is—

17 “(1) reduced by not less than 25 per centum
18 below the assistance which would otherwise be availa-
19 ble for the project, or

20 “(2) suspended for a period of two years
21 in any case in which it is determined that the project may
22 have been entitled to a priority under subsection (a) but for
23 action involving demolition, destruction, or damage to an Eli-
24 gible Property or property which is on the National Register
25 and which is involved in such project prior to the date on

1 which such assistance or permission is (or, but for paragraph
2 (2), would be) available. The two-year period specified in
3 paragraph (2) shall begin on the date such demolition, de-
4 struction, or damage commences.

5 “Subtitle C—Education and Training

6 “EDUCATION AND TRAINING

7 “SEC. 221. (a) The Secretary shall—

8 “(1) develop and make available to Federal agen-
9 cies, State and local governments, private organiza-
10 tions and individuals, and other nations and interna-
11 tional organizations pursuant to the World Heritage
12 Convention, training in, and information concerning,
13 professional methods and techniques for the preserva-
14 tion, rehabilitation, restoration, and maintenance of his-
15 toric properties; and

16 “(b) The Secretary, in consultation with appropriate pri-
17 vate organizations and Federal, State, and local agencies,
18 shall undertake a continuing program to increase the aware-
19 ness of historic resources and their preservation among the
20 student population of the United States and shall develop
21 mechanisms designed to give the general public a greater
22 knowledge of historic resources which are part of the cultural
23 heritage of the United States.

24 “(c) The Secretary, in cooperation with the Building
25 Arts Foundation established under subtitle C of title III and

1 the Secretary of Labor, shall encourage programs for the
 2 training and development of skilled labor in trades and crafts
 3 relating to historic preservation.

4 “Subtitle D—World Heritage Significance; International
 5 Activities

6 “INTERNATIONAL CENTRE

7 “SEC. 231. (a) The participation of the United States as
 8 a member in the International Centre for the Study of the
 9 Preservation and Restoration of Cultural Property is hereby
 10 authorized.

11 “(b) The Secretary shall recommend to the Secretary of
 12 State, after consultation with the Chairman of the Council,
 13 the Secretary of the Smithsonian Institution and representa-
 14 tives of other public and private organizations concerned with
 15 the technical problems of preservation, the members of the
 16 official delegation which will participate in the activities of
 17 the Centre on behalf of the United States. The Secretary of
 18 State shall appoint the members of the official delegation
 19 from the persons recommended to him by the Secretary.

20 “(c) For the purposes of this section there are author-
 21 ized to be appropriated such sums as may be necessary to
 22 pay the assessment of United States membership in the
 23 Centre for fiscal years 1981 through 1989. No appropriation
 24 is authorized and no payment shall be made to the Centre in

1 excess of 25 per centum of the total annual assessment of
2 such organization.

3 "INTERNATIONAL TRAVEL

4 "SEC. 232. The Secretary shall establish a program to
5 encourage tourism by people of other nations to historic prop-
6 erties in the United States which reflect the diverse ethnic
7 and cultural heritages of the citizens of the United States.

8 "COMMENT ON INTERNATIONAL ACTIONS OF FEDERAL
9 AGENCIES

10 "SEC. 233. Each Federal agency which proposes any
11 undertaking outside the United States which may affect a
12 property which is on the World Heritage List or which has
13 been nominated for inclusion on such list shall notify the
14 Council prior to commencing such undertaking and shall
15 afford the Council forty-five days to comment on the pro-
16 posed undertaking before commencing such undertaking.

17 "Subtitle E—Federal Agency Responsibilities

18 "PRESERVATION OFFICERS

19 "SEC. 241. (a) Under guidelines established by the
20 Council, each head of a Federal agency shall designate an
21 official at an appropriate level to be known as the agency's
22 Preservation Officer. The Preservation Officer shall be re-
23 sponsible for coordinating that agency's activities under this
24 Act. The Preservation Officer of each such agency shall, in
25 each instance where compliance with any provision of this

1 Act is required, be responsible for securing such compliance
2 for such agency. Each Federal agency shall develop a system
3 to provide for the designation of officials at the field or re-
4 gional level, as appropriate, to assist the Preservation Officer
5 in carrying out his functions.

6 “(b) Each Preservation Officer and official designated
7 under subsection (a) at the field or regional level shall partici-
8 pate in a training program established by the Council under
9 section 204. Each agency head shall consult with the Chair-
10 man of the Council to determine the appropriate number and
11 type of certified professional staff necessary to carry out the
12 preservation responsibilities of the agency and shall include a
13 report on the agency’s needs for professional staff, including
14 related costs thereof, in their annual budget requests to the
15 Congress.

16 “AGENCY MANAGEMENT OF HISTORIC PROPERTIES

17 “SEC. 242. (a) All Federal agencies shall assume re-
18 sponsibility for the preservation, maintenance, rehabilitation,
19 renovation, adaptive use, or restoration of properties which
20 are included in the National Register, or designated as Eligi-
21 ble Properties, and which are owned by such agency.

22 “(b) Each Federal agency having responsibility for the
23 management of any real property shall, to the extent practi-
24 cable, in carrying out such agency’s responsibilities under
25 other provisions of Federal law, give a priority to the use,

1 including compatible adaptive use, of Eligible Properties and
2 properties which are in the National Register that are owned
3 by the agency or otherwise under its jurisdiction or control.
4 Each such agency shall undertake, consistent with the pres-
5 ervation of such properties and the mission of such agency,
6 such rehabilitation and maintenance of such properties as
7 may be necessary to carry out this section.

8 “(c)(1) Within one year after the date of the enactment
9 of the National Historic Preservation Amendments of 1980
10 (or, if later, within one year after a property owned by or
11 otherwise under the jurisdiction or control of any Federal
12 agency is determined to be an Eligible Property or is includ-
13 ed in the National Register), each Federal agency owning or
14 otherwise having jurisdiction or control over any Eligible
15 Property or property included in the National Register shall
16 prepare a Property Management Plan detailing how the
17 agency will administer the property. Plans providing for the
18 preservation of the property shall be consistent with the
19 property management standards issued by the Secretary pur-
20 suant to section 223. Plans that do not provide for the pres-
21 ervation of the property or that may have an adverse effect
22 on the property shall be submitted to the Chairman for com-
23 ment in accordance with section 247.

24 “(2) During the preparation of such Property Manage-
25 ment Plans, each Federal agency shall take appropriate steps

1 to stabilize Eligible Properties and properties which are on
2 the National Register in order to prevent deterioration or
3 damage to the property.

4 “(d) No later than July 1, 1993, with the advice of the
5 Secretary and in cooperation with the State historic preser-
6 vation officer for the State involved, each Federal agency
7 shall locate, inventory, and nominate to the Secretary all
8 sites, buildings, districts, and objects owned by the agency
9 that appear to qualify for listing on the National Register
10 Historic Places.

11 “(e) Each Federal agency shall exercise caution during
12 the interim period until inventories and evaluations required
13 by subsection (d) are completed to assure that any federally
14 owned property that might qualify for nomination is not inad-
15 vertently transferred, sold, demolished, substantially altered,
16 or allowed to deteriorate significantly. The agency head shall
17 refer any questionable actions to the Secretary for an opinion
18 respecting the property’s eligibility for inclusion on the Na-
19 tional Register of Historic Places. The Secretary shall con-
20 sult with the State historic preservation officer for the State
21 or territory involved in arriving at his opinion. Where, after a
22 reasonable period in which to review and evaluate the prop-
23 erty, the Secretary determines that the property is an Eligi-
24 ble Property, the Federal agency head shall reconsider the
25 proposal in light of national environmental and preservation

1 policy. Where, after such reconsideration, the Federal agency
 2 head proposes to transfer, sell, demolish, or substantially
 3 alter the property he shall not act with respect to the proper-
 4 ty until the Advisory Council on Historic Preservation has
 5 been provided an opportunity to comment on the proposal.

6 “(f) Each Federal agency shall initiate measures to
 7 assure that where, as a result of Federal action or assistance,
 8 a property listed on the National Register of Historic Places
 9 is to be substantially altered or demolished, timely steps are
 10 taken to make or have made records, including measured
 11 drawings, photographs and maps, of the property, and that a
 12 copy of such records then be deposited in the Library of Con-
 13 gress as part of the Historic American Buildings Survey or
 14 Historic American Engineering Record for future use and
 15 reference. Agencies may call on the Secretary for advice and
 16 technical assistance in the completion of the above records.

17 “STUDY BY INTERIOR OF FEDERAL PROPERTIES

18 “SEC. 243. Notwithstanding any other provision of law,
 19 the Secretary of the Interior, acting through the National
 20 Park Service, shall, on his own initiative or at the request of
 21 any Federal agency, study and investigate properties includ-
 22 ed in the National Register which are under the jurisdiction
 23 or control of other Federal agencies and, from time to time,
 24 may, with the concurrence of the Chairman, recommend to
 25 the President that the administrative jurisdiction or control of

1 such properties be transferred to the Secretary. Any such
2 recommendation, along with the comments of the affected
3 agency, shall be transmitted, concurrently with its submission
4 to the President, to the Committee on Interior and Insular
5 Affairs of the United States House of Representatives and
6 the Committee on Energy and Natural Resources of the
7 United States Senate. One hundred and eighty days after the
8 submission of any such recommendation, and with the con-
9 currence of the Director of the Office of Management and
10 Budget, the head of the agency exercising administrative ju-
11 risdiction or control over the property shall transfer to the
12 Secretary jurisdiction over the property, together with such
13 funds and personnel available for the development, mainte-
14 nance, and interpretation thereof, as may be determined by
15 the Director of the Office of Management and Budget. Prop-
16 erty so transferred shall be administered by the Secretary as
17 a unit of the National Park System in accordance with the
18 Act of August 25, 1916 (35 Stat. 535), and in accordance
19 with such cooperative agreements as the Secretary of the
20 Interior and the head of the transferring agency may deter-
21 mine to be necessary or desirable for the continued use, if
22 any, of such property by the transferring agency where such
23 use is consistent with preservation of the historical, architec-
24 tural, archeological, or cultural characteristics of the
25 property.

1 "AUTHORITY FOR INTERIOR TO ACCEPT PRESERVATION
2 EASEMENTS

3 “SEC. 244. The Secretary is authorized, upon the con-
4 currence of the Council to accept gifts or donations of less
5 than fee interests in any Eligible Property or property which
6 is included in the National Register where the acceptance of
7 such interests will facilitate the preservation of such proper-
8 ty. Nothing in this section or in any provision of this Act
9 shall be construed to affect or impair any other authority of
10 the Secretary of the Interior under other provisions of law to
11 accept or acquire any property for preservation or for any
12 other purpose.

13 "AUTHORITY TO LEASE AND EXCHANGE

14 “SEC. 245. (a) Notwithstanding any other provisions of
15 law, each Federal agency having authority for the manage-
16 ment of any real property may, upon the concurrence of the
17 Council, lease to any appropriate person or organization, or
18 exchange with any such person or organization for other ap-
19 propriate property, any land, buildings, and other structures
20 managed by it which are Eligible Properties or properties
21 included in the National Register. Any such lease shall be at
22 such rates and under such terms and conditions as the head
23 of such agency deems appropriate. The rates at which any
24 such land, building, or other structure is leased may be less
25 than the fair market value of such lease in any case in which

1 the agency head, with the concurrence of the Council, deter-
2 mines that the lease will adequately insure the conservation,
3 maintenance, repair, preservation, and protection of such
4 property.

5 “(b) The proceeds of each lease of land or a building or
6 other structure under subsection (a) shall, notwithstanding
7 any other provision of law, be retained by the agency enter-
8 ing into such lease and used to defray the costs of administra-
9 tion, maintenance, repair, and related expenses incurred by
10 the agency with respect to such property or other Eligible
11 Properties or properties which are on the National Register
12 and which are owned by, or are otherwise under the jurisdic-
13 tion or control of, such agency. Any surplus proceeds from
14 such leases shall be deposited into the Treasury of the United
15 States at the end of the fiscal year following the fiscal year in
16 which such proceeds were received.

17 “(c) The head of any Federal agency having authority
18 for the management of any real property may, with the con-
19 currence of the Council, enter into contracts for the manage-
20 ment of any Eligible Property or property which is on the
21 National Register. Any such contract shall contain such
22 terms and conditions as the head of such agency deems nec-
23 essary or appropriate to protect the interests of the United
24 States.

1 “COOPERATION WITH PURCHASERS AND TRANSFEREES

2 “SEC. 246. All Federal agencies shall cooperate with
3 purchasers and transferees of any Eligible Property or prop-
4 erty which is included in the National Register in the devel-
5 opment of plans for uses of such property that are compatible
6 with preservation and conservation objectives without impos-
7 ing unreasonable economic burdens on public or private
8 interests.

9 “PROTECTION OF HISTORIC PROPERTIES

10 “SEC. 247. (a) The head of each Federal agency having
11 direct or indirect jurisdiction over a proposed Federal or fed-
12 erally assisted undertaking in any State and the head of each
13 Federal agency having authority to license any undertaking
14 shall, prior to the approval of the expenditure of any Federal
15 funds on the undertaking or prior to the issuance of any li-
16 cense or prior to the approval of any undertaking, as the case
17 may be, determine whether any Federal or nonfederally
18 owned historic properties that—

19 “(1) may meet the criteria of significance estab-
20 lished by the Secretary pursuant to section 104,

21 “(2) have been included in the Inventory of His-
22 toric Resources,

23 “(3) have been designated as Eligible Properties,
24 or

25 “(4) are included in the National Register,

1 are located within the areas to be directly or indirectly affect-
2 ed by the proposed undertaking. If the areas to be affected by
3 the proposed undertaking have not been surveyed in accord-
4 ance with the survey standards established by the Secretary
5 pursuant to section 222, the agency head shall, in consulta-
6 tion with the appropriate State historic preservation officer, if
7 any, ensure that a survey sufficient to locate and evaluate
8 such properties is undertaken at the earliest stages of plan-
9 ning for the undertaking. Properties which may meet the cri-
10 teria of significance shall be evaluated jointly by the Federal
11 agency and the appropriate State historic preservation officer
12 to determine whether or not the resource should be included
13 on the Inventory of Historic Resources and designated as an
14 Eligible Property. In the event that the agency and the State^o
15 historic preservation officer disagree, the matter shall be re-
16 ferred to the Council for a final decision within thirty days.
17 In the case of any property located within a State which does
18 not have an approved program under title I, the Council shall
19 make the determination under this subsection respecting
20 whether or not such property should be included in the In-
21 ventory of Historic Resources and designated as an Eligible
22 Property.

23 “(b) After carrying out subsection (a) each agency head
24 shall in consultation with the State historic preservation
25 officer—

1 “(1) take into account the effect of the proposed
2 undertaking on any district, site, building, structure, or
3 object that is designated as an Eligible Property or in-
4 cluded on the National Register;

5 “(2) determine that no feasible and prudent alter-
6 native exists to a proposed undertaking that may ad-
7 versely affect any National Historic Landmark or
8 World Heritage Property, and develop, to the maxi-
9 mum extent possible, such special planning as is neces-
10 sary to minimize harm to such properties; and

11 “(3) afford the Council a reasonable opportunity
12 to comment on the undertaking in accordance with
13 regulations established by the Council.

14 “EXEMPTIONS

15 “SEC. 248. Within one hundred and eighty days after
16 the date of the initial appointment of the members of the
17 Council, the Council shall promulgate regulations or guide-
18 lines, as appropriate, under which Federal programs or un-
19 dertakings may be exempted from any or all of the require-
20 ments of this Act when such exemption is determined to be
21 not inconsistent with the purposes of this Act, taking into
22 consideration the magnitude of the exempted undertaking or
23 program and the likelihood of impairment of historic
24 properties.

1 “FUNDS SPENT BY FEDERAL AGENCIES

2 “SEC. 249. (a) Notwithstanding any other provision of
3 law, all Federal agencies are authorized to expend appropri-
4 ated funds, including funds in operations and maintenance ac-
5 counts, for the purposes of this Act. Each Federal agency
6 shall include the costs of identification, evaluation, and pro-
7 tection activities of such agency under this Act as eligible
8 project costs in all undertakings of such agency or assisted by
9 such agency. Such eligible project costs shall also include
10 amounts paid by a Federal agency to any State historic pres-
11 ervation officer to be used by such officer in carrying out such
12 identification, evaluation, and protection responsibilities of
13 the Federal agency under this Act.

14 “(b) Identification, surveys, and evaluation carried out
15 with respect to historic properties within project areas shall
16 be treated for purposes of any law or rule of law as planning
17 costs of the project and not as costs of mitigation.

18 “(c) The costs of identification, surveys, evaluation, and
19 data recovery carried out in accordance with the guidelines
20 under section 222 may be charged to Federal licensees and
21 permittees as a condition to the issuance of such license or
22 permit.

23 “(d) The Secretary with the concurrence of the Council
24 and after notification for the Committee on Interior and Insu-
25 lar Affairs of the House of Representatives and the Commit-

tee on Energy and Natural Resources of the United States Senate, is authorized to waive, in appropriate cases, the 1 per centum limitation contained in section 7(a) of the Archaeological Recovery Act of 1960 (16 U.S.C. 469–469c).

“REVIEW OF AGENCY POLICIES AND PROGRAMS

“SEC. 250. Each Federal agency shall provide the Council a reasonable opportunity to comment on proposed policies and programs that may affect historic properties and the purposes of this Act at least forty-five days prior to the effective date of the implementation of any such action. With respect to legislative proposals, agencies shall only provide the Council with an opportunity to comment on proposals initiated by the agency.

“TITLE III—GENERAL, ADMINISTRATIVE, AND MISCELLANEOUS PROVISIONS

“Subtitle A—General Provisions

“DEFINITIONS

“SEC. 301. As used in this Act—

“(1) The term ‘Council’ means the Advisory Council on Historic Preservation.

“(2) The term ‘National Register’ and the term ‘Register’ mean the National Register of Historic Places established under section 101.

“(3) The term ‘Chairman’ means the Chairman of the Advisory Council on Historic Preservation.

1 “(4) The term ‘Secretary’ means the Secretary of
2 the Interior.

3 “(5) The term ‘Inventory of Historic Resources’
4 and the term ‘inventory’ mean the inventory estab-
5 lished under section 102.

6 “(6) The term ‘Eligible Property’ means a proper-
7 ty designated on the Inventory of Historic Resources
8 pursuant to section 102(b) as eligible for inclusion on
9 the National Register.

10 “(7) The term ‘prior authority of law’ means the
11 provisions of this Act as in effect before the date of the
12 enactment of the National Historic Preservation
13 Amendments of 1980.

14 “(8) The term ‘State’ includes, in addition to the
15 several States of the Union, the District of Columbia,
16 the Commonwealth of Puerto Rico, the Virgin Islands,
17 Guam, American Samoa, and the Commonwealth of
18 the Northern Mariana Islands.

19 “(9) The term ‘undertaking’ means any Federal,
20 federally assisted or federally licensed action, activity,
21 or program or the approval, sanction, assistance, or
22 support of any non-Federal action, activity, or pro-
23 gram. Such term includes new and continuing projects
24 and program activities which are—

1 “(A) directly undertaken by Federal agen-
2 cies;

3 “(B) supported in whole or in part through
4 Federal contracts and grants, or other forms of
5 direct or indirect funding assistance (including
6 loans and loan guarantees); and

7 “(C) carried out pursuant to a Federal lease,
8 permit, license, certificate, approval, or other form
9 of entitlement or permission.

10 “(10) The term ‘preservation’ includes identifica-
11 tion, evaluation, recordation, curation, acquisition, pro-
12 tection, rehabilitation, restoration, maintenance and re-
13 construction, or any combination of the foregoing
14 activities.

15 “(11) The term ‘Federal agency’ and the term
16 ‘agency’ mean any department, agency, or instrumen-
17 tality of the United States as such terms are defined in
18 title 1 of the United States Code, except that such
19 terms include the National Historic Preservation
20 Agency only when the context so requires.

21 “(12) The term ‘Indian tribe’ means the govern-
22 ing body of any Indian tribe, band, nation, or other
23 group which is recognized as an Indian tribe by the
24 Secretary of the Interior of for which the United
25 States holds lands in trust or other restricted status.

1 “(13) The term ‘historic properties’ includes arti-
2 facts which are important in the prehistory of the
3 United States, including appropriate below-ground (ar-
4 chaeological) and above-ground architectural data.

5 “HISTORIC PRESERVATION FUND

6 “SEC. 302. (a)(1) To carry out the provisions of this
7 Act, there is hereby established the Historic Preservation
8 Fund (hereafter referred to as the ‘fund’) in the Treasury of
9 the United States. The fund shall consist of not to exceed
10 \$150,000,000 for fiscal year 1981, and not to \$300,000,000
11 for each of the fiscal years 1982 through 1989, from rev-
12 enues due and payable to the United States under the Outer
13 Continental Shelf Lands Act (43 U.S.C. 338), under the Act
14 of June 4, 1920 (30 U.S.C. 191), or from revenues due and
15 payable to the United States under both of such Acts not-
16 withstanding any provision of law that such proceeds shall be
17 credited to miscellaneous receipts of the Treasury. There
18 shall also be credited to the fund any amount paid to any
19 agency or instrumentality of the United States in satisfaction
20 of any loan made by the Secretary under section 121.

21 “(2) Amounts credited to the fund shall be used only to
22 carry out the purposes of this Act and shall be available for
23 expenditure only when appropriated by the Congress. Any
24 amounts not appropriated shall remain available in the fund
25 until appropriated for such purposes.

1 “(3) Appropriations of amounts available in this fund
2 may be made without fiscal year limitation.

3 “(b) Not less than three-fourths of any amount appropri-
4 ated under this section shall be available only for grants to
5 States under part 2 of subtitle B of title I. The basis of distri-
6 bution of such three-fourths available for such grants shall
7 include—

8 “(1) equal distribution among all the States;

9 “(2) population;

10 “(3) performance;

11 “(4) total needs; and

12 “(5) responsiveness to needs of local communities
13 and neighborhoods.

14 The Secretary shall notify each State of its apportionment
15 under this subsection within thirty days following the date of
16 enactment of legislation appropriating funds under this sec-
17 tion. Any amount of any such apportionment which has not
18 been paid or obligated during the fiscal year for which such
19 amount was appropriated or during the succeeding two fiscal
20 years shall be returned by the State to the Secretary and
21 shall be reapportioned by the Secretary, in accordance with
22 paragraphs (1), (2), and (3) of this subsection, to States other
23 than the State returning such amount.

24 “(c) Not more than one-fourth of the amount appropri-
25 ated under this section shall be available only for carrying

1 out the Federal program under part 3 of subtitle B of title I
 2 and for the Secretary to carry out his other duties and re-
 3 sponsibilities under this Act, except that if any amount of
 4 such one-fifth remains unexpended or unobligated after all
 5 necessary expenditures have been made for purposes of car-
 6 rying out such Federal program, the Secretary may use such
 7 remaining amounts, without regard to fiscal year limitation,
 8 to make supplemental grants to a project receiving assistance
 9 under a State or local program under part 2 of subtitle B of
 10 title I. Any such supplemental grant shall be made only in
 11 compliance with the requirements of such subtitle, including
 12 the 50 per centum limitation contained in section 112(a). No
 13 amount may be appropriated as provided in this subsection
 14 for the fiscal years 1981 or 1982 if such appropriation would
 15 result in the reduction in the amounts available for grants to
 16 States under subsection (b) below the amounts available for
 17 grants to States under prior authority of law.

18 "PUBLIC PARTICIPATION AND BENEFIT

19 "SEC. 303. The Council, in consultation with the Secre-
 20 tary, shall establish regulations to insure maximum public
 21 participation in, and public benefit from all activities of—

22 "(1) the Council, the Secretary, and other Federal
 23 agencies carrying out any requirement of this Act,

24 "(2) States carrying out approved programs under
 25 this Act, and

1 “(3) units of local government carrying out pro-
2 grams certified as provided in this Act.

3 “RELATIONSHIP TO CERTAIN OTHER LAWS

4 “SEC. 304. (a) Except as otherwise provided by law,
5 grants made under this Act may not be used to satisfy the
6 requirements of any other provision of law requiring the
7 matching by State or local funds for eligibility for any other
8 Federal assistance.

9 “(b) Notwithstanding any other provision of law, no
10 grant made under this Act shall be treated as taxable income
11 for purposes of the Internal Revenue Code of 1954 or for
12 purposes of any State or local law imposing a tax on income.

13 “PRIVATE ATTORNEYS GENERAL

14 “SEC. 305. In any civil action brought in any United
15 States district court by any person against any Federal
16 agency to enforce the requirements of section 247 of this Act,
17 if such person substantially prevails in such action, the court
18 shall award to such person such attorney’s fees, expert wit-
19 ness fees, and other costs of preparing for, and participating
20 in, such action as the court deems reasonable.

21 “Subtitle B—Center for the Building Arts

22 “ESTABLISHMENT OF NATIONAL HISTORIC SITE

23 “SEC. 311. In order to commemorate and encourage
24 the building arts and to preserve and maintain for public use
25 a nationally significant building which exemplifies the great

1 achievements of the building arts in the United States, the
 2 Secretary of the Interior is authorized to establish the Pen-
 3 sion Building located in the block bounded by Fourth Street,
 4 Fifth Street, F Street, and G Street, Northwest in Washing-
 5 ton, District of Columbia as a national historic site to be
 6 named the 'National Center for the Building Arts' (herein-
 7 after in this title referred to as the 'Center'). The Administra-
 8 tor of General Services shall transfer such building, and the
 9 land on which it is situated, to the jurisdiction of the Sec-
 10 tary of the Interior promptly following the enactment of the
 11 National Historic Preservation Amendments of 1979.

12 "MANAGEMENT OF CENTER

13 "SEC. 312. (a) The Secretary of the Interior shall ren-
 14 ovate, maintain, and administer the site established under
 15 section 331 in accordance with the provisions of this title, the
 16 Acts generally applicable to units of the national park system
 17 (including the Act of August 25, 1916; 16 U.S.C. 1-4 and
 18 the Act of August 21, 1935, 16 U.S.C. 461-7). In carrying
 19 out such functions, the Secretary is authorized to enter into
 20 contracts with the National Building Arts Foundation.

21 "(b) The renovation of the Center and its conservation
 22 for public use and enjoyment shall be carried out by the Sec-
 23 retary with the advice of the Council. Such renovation shall,
 24 as far as practicable: (1) preserve, enhance, and restore the
 25 distinctive and historically authentic architectural character

1 of the Pension Building consistent with the needs of the
 2 Center; and (2) retain the availability of the central court of
 3 the building, or portions thereof, for appropriate public
 4 activities.

5 “(c) The Secretary of the Interior, acting through the
 6 National Park Service, shall provide such maintenance, secu-
 7 rity, information, interpretation, janatorial, and other services
 8 as may be necessary to assure the preservation and operation
 9 of the Center and the Secretary, acting through the National
 10 Park Service, may enter into cooperative agreements with
 11 the Building Arts Foundation, created by section 333 of this
 12 title, for such purposes.

13 “(d) There are hereby authorized to be appropriated to
 14 the Secretary \$15,000,000 to be used for the renovation of
 15 the Center.

16 “NATIONAL BUILDING ARTS FOUNDATION

17 “SEC. 313. (a) There is hereby established in the Dis-
 18 trict of Columbia a charitable, educational, and scientific non-
 19 profit corporation to be known as the National Building Arts
 20 Foundation (hereinafter in this subtitle referred to as the
 21 ‘Foundation’) whose duty it shall be to carry out the follow-
 22 ing programs:

23 “(1) collection and dissemination of information
 24 concerning the building arts, including the establish-
 25 ment of a national reference center for current and his-

1 toric documents, publications, and research relating to
2 the building arts;

3 “(2) providing education and information relating
4 to the history and practice of the building arts includ-
5 ing promotion of imaginative education programs to en-
6 hance understanding and appreciation of all facets of
7 the building arts; and

8 “(3) the public display of temporary and perma-
9 nent exhibits illustrating and interpreting the building
10 arts;

11 and to utilize, to the maximum extent practicable, the histor-
12 ic site established under section 332 for such purposes. The
13 Foundation shall coordinate its activities under this subtitle
14 with other public and private organizations and individuals in
15 order to avoid, to the extent possible, the duplication of ef-
16 forts relating to the functions of the Foundation.

17 “(b)(1) The Foundation shall be under the direction of a
18 Board of Trustees (hereinafter in this subtitle referred to as
19 the ‘Board’), which shall meet at least two times during each
20 calendar year.

21 “(2) The Board shall be composed of nine general mem-
22 bers and the following ex officio members: Secretary of the
23 Interior, the Secretary of Labor, the Chairman of the Adviso-
24 ry Council on Historic Preservation, the Librarian of Con-
25 gress, the Secretary of Housing and Urban Development, the

1 Commissioner of Education (or any successor agency or
2 office), and the Chairman of the National Endowment of the
3 Arts. The President of the Foundation, appointed under sub-
4 section (d) shall serve as a nonvoting ex officio member of the
5 Board. The initial general members shall be appointed by the
6 President from among citizens of the United States having
7 distinction in the building arts. In making appointments of
8 initial general members the President shall consider recom-
9 mendations submitted to him by institutions and organiza-
10 tions (including labor unions, professional associations, and
11 educational institutions) having an interest in the activities to
12 be carried out by the Foundation, having due regard for ap-
13 propriate representational balance on the Board. The Presi-
14 dent shall appoint all initial general members of the Board
15 within ninety days after the date of the enactment of the
16 National Historic Preservation Amendments of 1980. The
17 Board shall initially convene not later than ninety days after
18 the expiration of the ninety-day period referred to in the pre-
19 ceding sentence. Nine members of the Board shall constitute
20 a quorum. The members of the initial Board shall serve as
21 incorporators and shall take whatever actions are necessary
22 to incorporate the Foundation as a nonprofit corporation in
23 the District of Columbia.

24 “(3) The general members of the Board shall serve for
25 terms of five years, except that the general members initially

1 appointed shall serve for terms of from one to five years, as
2 designated by the President at the time of appointment, in
3 such manner as to assure that not more than two of such
4 terms will expire in any one year. Any vacancy on the Board
5 among its general members following their initial appoint-
6 ment, shall be filled by the Board by a vote of not less than
7 ten of the then acting members of the Board.

8 “(4) The Board shall have a Chairman and Vice Chair-
9 man who shall be elected from among the general members
10 by a majority vote of the Board to serve for a period of two
11 years.

12 “(5) The general members of the Board shall each be
13 entitled to receive \$100 for each day (including travel time)
14 during which they are engaged in the performance of func-
15 tions vested in the Board. The ex officio members of the
16 Board shall receive no additional compensation by reason
17 their service on the Board, but while away from their homes
18 or regular places of business in the performance of services
19 for the Board, all members of the Board shall be allowed
20 travel expenses, including per diem in lieu of subsistence, in
21 the same manner as persons employed intermittently in Gov-
22 ernment service are allowed expenses under section 5703 of
23 title 5 of the United States Code.

24 “(6) A general member of the Board may be removed
25 during his term of office by a vote of seven members for

1 malfeasance in office or for persistent neglect of or inability
2 to discharge duties.

3 “(7) No member of the Board may participate in any
4 decision, action, or recommendation with respect to any
5 matter which directly benefits such member or pertains spe-
6 cifically to any firm, organization, or other entity with which
7 such member is then associated or has been associated within
8 a period of two years.

9 “(8) Ex officio members of the Board may designate
10 another officer of their respective department or agency to
11 act in their place in the discharge of their duties as a member
12 of the Board when required because of other public business.

13 “(c) The Board may adopt such rules as it deems neces-
14 sary respecting the operations of the Board and the activities
15 to be carried out by the Board. All meetings of the Board
16 shall be open to the public and the Board shall provide the
17 maximum practicable opportunities for notice and public com-
18 ment concerning its activities.

19 “(d)(1) The Board shall have the power to appoint and
20 remove a President of the Foundation and such other officers
21 as the Board determines to be necessary.

22 “(2) The President of the Foundation may appoint and
23 remove such employees of the Foundation, and may engage
24 such consultants, as the President determines necessary to
25 carry out the purposes of the Foundation.

1 “(e) No part of any income or assets of the Foundation
2 shall inure to the benefit of any trustee, officer, employee, or
3 other individual except as salary or reasonable compensation
4 for services.

5 “(f) No political test or political qualification shall be
6 used in selecting, appointing, promoting, or taking any per-
7 sonnel action with respect to any officer, agent, or employee
8 of the Foundation or with regard to the selection or conduct
9 of any program of the Foundation.

10 “(g)(1) Officers and employees of the Foundation shall
11 be compensated at rates determined by the Board, but not in
12 excess of the rate of level IV of the executive schedule speci-
13 fied in section 5316 of title 5 of the United States Code.

14 “(2) Nothing in this Act shall be construed as limiting
15 the authority of the Office of Management and Budget to
16 review and submit comments upon the Foundation’s budget
17 requests upon their transmittal to the Congress.

18 “(3) Officers and employees of the Foundation shall be
19 considered officers and employees of the Federal Government
20 only for purposes of the following provisions of title 5 of the
21 United States Code: subchapter I of chapter 81 (relating to
22 compensation for work injuries); chapter 83 (relating to civil
23 service retirement); chapter 87 (relating to life insurance);
24 and chapter 89 (relating to health insurance). The Founda-
25 tion shall make contributions at the same rates applicable to

1 agencies of the Federal Government under the provisions re-
2 ferred to in this paragraph.

3 “(h) Any department, agency, or other instrumentality
4 of the United States is hereby authorized to transfer or loan
5 to the Foundation without charge therefor works of art,
6 books, records, drawings, artifacts, equipment, or other ob-
7 jects for educational, prehistorical, historical, archival, or ex-
8 hibition purposes. Any such department, agency, or other in-
9 strumentality of the United States, including the Government
10 Printing Office, is authorized to furnish property, both real
11 and personal, and personal and nonpersonal services to the
12 Foundation, and the Foundation is authorized to furnish
13 property and services to them. The furnishing of property
14 and services under this section shall be under such terms and
15 conditions, including reimbursability, as the Foundation and
16 the head of the department, agency, or instrumentality con-
17 cerned shall deem appropriate.

18 “(i) The Foundation shall have the power—

19 “(1) to have succession until dissolved by Act of
20 Congress in which event title to the properties of the
21 Foundation, both real and personal, shall, insofar as
22 consistent with existing contractual obligations and
23 subject to all other legally enforceable claims or de-
24 mands by or against the Foundation, pass to and

1 become vested in the United States of America unless
2 otherwise provided by such Act of Congress;

3 “(2) to sue and be sued in its corporate name;

4 “(3) to adopt, alter, and use a corporate seal,
5 which shall be judicially noticed;

6 “(4) to adopt and to make such bylaws, rules, and
7 regulations, not inconsistent with the laws of the
8 United States or of any State, as it deems necessary
9 for the administration of its functions under this subti-
10 tle, including among other matters bylaws, rules, and
11 regulations governing administration of Foundation
12 funds, and the organization and procedure of the Board
13 of Trustees;

14 “(5) to accept, hold, and administer gifts and be-
15 quests of money, securities, or other personal property
16 of whatsoever character, absolutely or in trust, for the
17 purposes for which the Foundation is created; unless
18 otherwise restricted by the terms of the gift or bequest,
19 the Foundation is authorized to sell, exchange, or oth-
20 erwise dispose of and to invest or reinvest in such in-
21 vestments as it may determine from time to time the
22 moneys, securities, or other property given or be-
23 queathed to it; the principal of such corporate funds,
24 together with the income therefrom and all other rev-
25 enues received by it from any source whatsoever, shall

1 be placed in such depositories as the Foundation shall
2 determine and shall be subject to expenditure by the
3 Foundation for its corporate purposes;

4 “(6) to acquire by gift, devise, purchase, or other-
5 wise, absolutely or in trust, and to hold and, unless
6 otherwise restricted by the terms of the gift or devise,
7 to encumber, convey, or otherwise dispose of, any real
8 property, or any estate or interest therein, as may be
9 necessary or proper in carrying into effect the purposes
10 of the Foundation; the Foundation shall not acquire
11 any real property solely for the purpose of the preser-
12 vation of such property;

13 “(7) to contract and make cooperative agreements
14 with Federal, States, municipal, or special purpose de-
15 partments, agencies or districts, corporations, associ-
16 ations, or individuals, under such terms and conditions
17 as it deems advisable;

18 “(8) to accept grants from Federal, State, and
19 local governmental agencies and other entities;

20 “(9) to enter into contracts generally and to ex-
21 ecute all instruments necessary or appropriate to carry
22 out its corporate purposes, which instruments shall in-
23 clude such concession contracts, leases, or permits for
24 the use of lands, buildings, or other property deemed

1 desirable either to accommodate the public or to facili-
2 tate administration; and

3 “(10) generally to do any and all lawful acts nec-
4 essary or appropriate to carry out the purposes for
5 which the Foundation is created.

6 “(j) There is authorized to be appropriated to the Foun-
7 dation for use in accordance with this subtitle, amounts
8 which will in the aggregate equal gifts, bequests, devises of
9 money, securities, and other property received by the Foun-
10 dation, but not to exceed \$1,000,000 for any fiscal year. In
11 addition to such amounts, there is authorized to be appropri-
12 ated to the Foundation not more than \$250,000 for the fiscal
13 year 1981 and \$500,000 for each of the fiscal years 1982
14 through 1986. Amounts authorized to be expended under this
15 subsection shall remain available until expended for a period
16 of one fiscal year following the fiscal year for which
17 appropriated.

18 “(k) The budget of the Foundation shall be submitted to
19 the Congress in conjunction with the submission of the
20 budget of the Department of the Interior as a related agency.

21 “(l) The Foundation, and any programs sponsored by it,
22 shall be eligible to be treated as an organization described in
23 section 170(c)(2)(B) of the Internal Revenue Code of 1954
24 and as an organization described in section 501(c)(3) of such
25 Code that is exempt from taxation under section 501(a) of

1 such Code. If such treatments are conferred in accordance
 2 with the provisions of such Code, the Foundation, and pro-
 3 grams sponsored by it, shall be subject to all provisions of
 4 such Code relevant to the conduct of organizations exempt
 5 from taxation.

6 "DEFINITION OF BUILDING ARTS

7 "SEC. 314. For purposes of this subtitle, the term
 8 'building arts' includes, but shall not be limited to, all practi-
 9 cal and scholarly aspects of prehistoric, historic, and contem-
 10 porary architecture, construction, building technology and
 11 skills, landscape architecture, preservation, building and con-
 12 struction, engineering, urban and community design and re-
 13 newal, city and regional planning and related skills, trades,
 14 and crafts.

15 "AUDIT AND REPORT

16 "SEC. 315. (a) The General Accounting Office shall
 17 review and audit regularly the accounts of the Foundation for
 18 purposes of determining the continuing ability of the Founda-
 19 tion to pay for the functions of the Center.

20 "(b) On December 31 of each calendar year which com-
 21 mences after the date of the enactment of this subtitle, the
 22 Foundation shall submit to the Committee on Interior and
 23 Insular Affairs of the United States House of Representa-
 24 tives and to the Committee on Energy and Natural Re-
 25 sources of the United States Senate a report containing a

1 statement of its activities carried out pursuant to this title,
2 together with a plan of the programs which it proposes to
3 carry out during the succeeding four years.”.

4 EMERGENCY ACQUISITION

5 SEC. 3. The Act of October 26, 1949 (16 U.S.C. 468
6 and following) is amended by adding the following new sec-
7 tion at the end thereof:

8 "SEC. 6. (a) The Secretary of the Interior shall establish
9 and maintain a program, in cooperation with the National
10 Trust for Historic Preservation for the emergency acquisition
11 of real and personal property, or any interests therein, eligi-
12 ble for, or included in, the National Register established
13 under the National Historic Preservation Act and threatened
14 with immediate demolition or impairment. When the Secre-
15 tary, with the concurrence of the Chairman of the Board of
16 Directors of the National Trust, determines that such acquisi-
17 tion is in the public interest and will further national preser-
18 vation policy as provided in the National Historic Preserva-
19 tion Act, the Attorney General shall, if necessary, institute
20 condemnation proceedings on behalf of the National Trust, in
21 which title will vest. Upon acquisition of a property interest
22 pursuant to this subsection, the National Trust shall attempt
23 to convey such interest to any governmental or nongovern-
24 mental entity under such conditions as will ensure the prop-
25 erty's continued preservation and use, except that if, after a

1 reasonable time, the National Trust, with the approval of the
2 Advisory Council on Historic Preservation, determines that
3 there is no feasible and prudent means to transfer such prop-
4 erty and to ensure its continued preservation and use for the
5 public benefit, then the National Trust for Historic Preserva-
6 tion may convey the property at the fair market value of its
7 interest in such property to any entity without restriction.

8 “(b) In the case of any property acquired by the Nation-
9 al Trust under subsection (a), it shall be a condition of such
10 acquisition that any proceeds from the conveyance by the
11 National Trust of any interest in such property, less the
12 actual costs incurred by the Trust in the acquisition, develop-
13 ment, and sale of such interest shall be transferred by the
14 Trust to the Secretary of the Treasury and deposited in the
15 United States Treasury. Such amounts so deposited shall be
16 placed in a separate account established on the books and
17 records of the Treasury and shall be available, notwithstand-
18 ing any other provision of law and without fiscal year limita-
19 tion, for payment of obligations of the United States incurred
20 under subsection (a). Any excess of such proceeds over the
21 amount made available from grants under section 111(1)(B)
22 may be retained by the Trust.”.

23 REPORT ON PRESERVATION OF INTANGIBLE ELEMENTS

24 SEC. 4. The Secretary of the Interior, in cooperation
25 with the American Folklife Center of the Library of Congress

1 shall, within two years after the date of the enactment of this
2 Act, submit a report to the President and the Congress on
3 preserving and conserving the intangible elements of our cul-
4 tural heritage such as arts, skills, folklife, and folkways. The
5 report shall take into account the views of other public and
6 private organizations, as appropriate, including the Building
7 Arts Foundation. This report shall include recommendations
8 for legislative and administrative actions by the Federal Gov-
9 ernment in order to preserve, conserve, and encourage the
10 continuation of the diverse traditional prehistoric, historic,
11 ethnic, and folk cultural traditions that underlie and are a
12 living expression of our American heritage.

13 **FUNDING REPORT**

14 SEC. 5. The Secretary of the Interior shall submit a
15 report directly to the President and the Congress within eight
16 years after the date of the enactment of this Act, reviewing
17 the operation of the Historic Preservation Fund and the na-
18 tional historic preservation program since the enactment of
19 this Act and recommending appropriate funding levels, the
20 time period for the reauthorization for appropriations from
21 the fund, and other appropriate legislative action to be under-
22 taken upon the expiration of the current fund authorization
23 on September 30, 1989.

1 PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

2 SEC. 6. (a) The Advisory Council on Historic Preserva-
3 tion shall investigate the plans and performance of the Penn-
4 sylvania Avenue Development Corporation as they relate to
5 historic preservation and, within ninety days from the date of
6 enactment of this Act, submit a report to the Congress con-
7 taining the results of such study together with the Council's
8 recommendations for the inclusion in such plans of a compre-
9 hensive historic preservation element.

10 (b) The areas which are subject to the Pennsylvania De-
11 velopment Corporation Act shall be deemed to be a historic
12 district for purposes of the amendments made by this Act and
13 for the purposes of any law of the District of Columbia and
14 for purposes of any other Federal, State, or local law. Not-
15 withstanding the development plan of the Corporation, the
16 Corporation shall take such steps as may be necessary to
17 protect historic resources in the areas subject to such Penn-
18 sylvania Development Corporation Act.

19 (c) The Pennsylvania Development Corporation Act is
20 amended—

21 (1) in section 7(a) by striking out the semicolon
22 and all that follows down to the period at the end
23 thereof, and

24 (2) in section 9(b) by inserting "demolishing,"
25 after "altering," in each place it appears, by inserting

1 “demolition” after “alteration” and by inserting before
2 the period at the end thereof: “and historic preserva-
3 tion laws, regulations, and ordinances”.

4 REPORT ON TAX LAWS

5 SEC. 7. The Secretary of the Interior, in cooperation
6 with the Secretary of the Treasury, shall submit a report to
7 the President and the Congress on Federal tax laws relating
8 to historic preservation or affecting in any manner historic
9 preservation. Such report shall include recommendations
10 specting amendments to such laws which would further the
11 purposes of this Act. Such report shall be submitted within
12 one year after the date of enactment of this Act.

13 CULTURAL PARKS REPORT

14 SEC. 8. The Secretary of the Interior shall undertake a
15 comprehensive study and formulate recommendations for the
16 creation of a National System of Cultural Parks to provide
17 for the preservation, interpretation, development, and use by
18 public and private entities of the prehistoric, historic, archi-
19 tectural, and cultural resources, as well as the natural re-
20 sources, found in definable urban and settled areas through-
21 out the Nation. The Secretary shall submit such legislative
22 recommendations as may be necessary to establish such
23 system simultaneously to the President and the Congress
24 within two years after the enactment of this Act.